IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 1ST OCTOBER 2007 / 9TH ASWINA 1929

WA.No. 2368 of 2007

AGAINST THE JUDGEMENT IN WPC.28289/2007 Dated 24/09/2007
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APPELLANTS/PETITIONERS:
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1. SANJU ZACHARIAH,
   MANTHANATHU STEVA COTTAGE,
   NELLIMUKAL P.O., ADOOR,
   PATHANAMTHITTA DISTRICT.

2. REENA T.DAVID,
   MANTHANATHU STEVA COTTAGE,
   NELLIMUKAL P.O., ADOOR,
   PATHANAMTHITTA DISTRICT.

BY ADV. SRI.B.JAYASURYA

RESPONDENTS/RESPONDENTS:
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1. THE MARRIAGE OFFICER/SUB REGISTRAR,
   OFFICE OF THE SUB REGISTRAR'S OFFICE,
   ADOOR.

2. THE STATE OF KERALA,
   REPRESENTED BY CHIEF SECRETARY TO GOVERNMENT,
   GOVT. SECRETARIAT, THIRUVANANTHAPURAM.

BY SPECIAL GOVERNMENT PLEADER MR.C.T.RAVIKUMAR

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 01/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

W.A.No.2368 of 2007

Dated, this the 1st day of October, 2007

JUDGMENT

H.L.Dattu, C.J.

The writ petition came to be filed by the petitioners for a direction to the first respondent/Marriage Officer to issue the marriage certificate of the petitioners which was solemnized on 10.9.2007. According to the first petitioner, he is employed in United States and he has to report for duty on or before 4.10.2007. It is his further case that the second petitioner is his wife and she has to accompany him.

2. Petitioners have filed an application along with necessary fees before the Marriage Officer for issuing a marriage certificate.

3. In the writ petition filed, the petitioners requested this Court to direct the Marriage Officer to waive the time limit of 30 days prescribed for issuing the marriage certificate and then direct the Marriage Officer to issue the marriage certificate to the petitioners.

4. The learned Single Judge following the dicta of this Court in the case of *Deepak Krishna* v. *District Registrar* (2007 (3) KLT 570) has rejected the writ petition. Aggrieved by the said order passed by the learned Judge, the petitioners are before us in this appeal.

5. In *Deepak Krishna's case* a Division Bench of this Court has observed at paragraph 22 of the judgment as under:

> "22. We, therefore, hold that the procedure stipulated under S.16 is mandatory in character and no discretion is cast on the Marriage Officer to deviate from those statutory procedures. Under such circumstances, we are inclined to overrule the judgment in Giby George's case to the extent it holds that the Marriage Officer need not give 30 days time for

> registration of the marriage under S.16 of the Act, so also the judgment in John Rogi's case. Principles laid down by the Division Bench, in John Lukose's would be confined to the facts and circumstances of that case. Judgment of the Division Bench in W.A.675/2004 is affirmed. We, however, hold that the marriages which have already been registered by the Marriage Officers as per the directions of this Court and certificates issued would stand subject to the provisions contained in sub-s.2 of S.24 of the Act."

6. In view of the law declared by this Court in the aforesaid decision, in our opinion, the learned Judge was fully justified in rejecting the writ petition. We do not see any good ground to interfere with the orders passed by the learned Single Judge. Therefore the writ appeal requires to be rejected and it is rejected.

Ordered accordingly.

(**H.L.DATTU)**
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns